

# **Exhibit J**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RECEIVED  
SDNY PRO SE OFFICE  
2020 NOV 20 PM 2:35

Peter Rodriguez

Write the full name of each plaintiff.

No. \_\_\_\_\_  
(To be filled out by Clerk's Office)

-against-

**COMPLAINT**  
(Prisoner)

CITY OF NEW YORK

CAPTAIN GIBSON, E.S.U. officer

CAPT. MOISE (E.S.U.)

C.O. Ferrero, E.S.U. officer

Do you want a jury trial?  
☒ Yes ☐ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

**NOTICE**

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

**I. LEGAL BASIS FOR CLAIM**

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ Violation of my federal constitutional rights.

☐ Other: \_\_\_\_\_

**II. PLAINTIFF INFORMATION**

Each plaintiff must provide the following information. Attach additional pages if necessary.

Peter

First Name

Middle Initial

Rodriguez

Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

3491603090

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

MANHATTAN DETENTION complex

Current Place of Detention

125 White Street

Institutional Address

NY

County, City

NY

State

10013

Zip Code

**III. PRISONER STATUS**

Indicate below whether you are a prisoner or other confined person:

☒ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☐ Other: \_\_\_\_\_

**IV. DEFENDANT INFORMATION**

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

**Defendant 1:**

CITY of New York  
 First Name Last Name Shield #  
 Government  
 Current Job Title (or other identifying information)  
 City Hall  
 Current Work Address  
 NY NY 10007  
 County, City State Zip Code

**Defendant 2:**

Gibson  
 First Name Last Name Shield #  
 Captain  
 Current Job Title (or other identifying information)  
 125 White Street  
 Current Work Address  
 NY NY 10013  
 County, City State Zip Code

**Defendant 3:**

moise  
 First Name Last Name Shield #  
 Captain (E-5)  
 Current Job Title (or other identifying information)  
 75-20 Astoria Blvd  
 Current Work Address  
 E Elmhurst NY 11370  
 County, City State Zip Code

**Defendant 4:**

Ferrero  
 First Name Last Name Shield #  
 Correction Officer  
 Current Job Title (or other identifying information)  
 125 White Street  
 Current Work Address  
 NY NY 10013  
 County, City State Zip Code

IV. DEFENDANT INFORMATION *Continued*

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant *5*

*John Doe*  
 First Name Last Name Shield #  
*E.S.U. officer*  
 Current Job Title (or other identifying information)  
*75-20 ASTORIA BLVD*  
 Current Work Address  
*E. Elmhurst NY 11370*  
 County, City State Zip Code

Defendant *6*

*John Doe*  
 First Name Last Name Shield #  
*E.S.U. officer*  
 Current Job Title (or other identifying information)  
*75-20 ASTORIA BLVD*  
 Current Work Address  
*E. Elmhurst NY 11370*  
 County, City State Zip Code

Defendant 3:

First Name Last Name Shield #  
 Current Job Title (or other identifying information)  
 Current Work Address  
 County, City State Zip Code

Defendant 4:

First Name Last Name Shield #  
 Current Job Title (or other identifying information)  
 Current Work Address  
 County, City State Zip Code

**V. STATEMENT OF CLAIM**

Place(s) of occurrence: MANHATTAN DETENTION Complex

Date(s) of occurrence: Monday Aug 31, 2020

**FACTS:**

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

On Aug 31, 2020 there was a fire in my cell (3) cell. C.O. Ferrero came to put the fire out BUT E.S.U. officer John Doe #1 (last name starts with a "G" - white male) told C.O. Ferrero to "go away we got this" He took the fire hydrant from C.O. Ferrero and gave him a can of mace to E.S.U. officer John Doe #2 (TALL black male). my cell was opened E.S.U. officer John Doe #1 then began to spray me with the fire extinguisher while E.S.U. officer John Doe #2 sprayed me with both H<sub>2</sub>O and E.S.U. officer John Doe #1 can of mace. AFTER THAT they put me in cuffs and took 15 minutes to get me to shower to begin DECONTAMINATION process. CAPTAIN MOISE WAS in charge of the E.S.U. officers and CAPTAIN GIBSON WAS the AREA SUPERVISOR. For (9 hours) CAPTAIN GIBSON came to shower Area 3 or more hours later ~~coercing~~ bribing/coercing me STATING "If you refuse the clinic I will give

you your property BACK. ~~if~~ not you get nothing" she added As in which CAPT. Gibson said, I told her that I have I have Asthma And I TAKE steroid medication for it, and THAT NOT ONLY WAS I exposed to O.C spray BUT ALSO TOXIC fumes from smoke inhalation ~~at the scene~~ ~~at the scene~~ (PR) she then STATED "I (she) GOTTA do paper work that cant be done (for her) in the clinic with you (me)"

#### INJURIES:

see next

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

Breathing problems, chest pains, blurry vision  
 skin/eye-burning irritation Anxiety, TSSA  
 POST TRAUMATIC stress disorder hearing voices  
 seeing things sleep problems medical care  
 needed vital signs, asthma treatment, pain  
 med & vision fore eyes

#### VI. RELIEF

State briefly what money damages or other relief you want the court to order.

compensatory damages relief - 1 million  
 general damages relief - 1 million  
 ACTUAL damages relief - 1 million  
 future harm damages relief - 1 million  
 punitive damages relief - 1 million

V. STATEMENT OF CLAIM continued

Place(s) of occurrence: MANHATTAN DETENTION complex

Date(s) of occurrence: Aug 31, 2020

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

I refused medical attention in fear of retaliation and was placed in the same cell which was still filled with smoke, fire debris and O.C spray I was issued an indictment which was later dismissed. All defendants are in violation of my 8th Amendment rights subjecting me to cruel and unusual punishments. ESO officer John Doe #1 and 2 used excessive force unnecessary for a violating the Federal rule 2 Settlement Agreement. Capt. Moire ESO Capt failed to adequately supervise ESO officers John Doe #1 and 2 and Capt Gibson interfered with my medical care. City of New York is liable for their failure to adequately train supervise. All other defendants mentioned above. No grievance was filed because of my fear for my life threatened by above defendants. I am intimidated.



**VII. PLAINTIFF'S CERTIFICATION AND WARNINGS**

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

11/10/20  
 Dated \_\_\_\_\_  
 Plaintiff's Signature \_\_\_\_\_  
 Peter Rodriguez  
 First Name Middle Initial Last Name  
 125 White Street  
 Prison Address \_\_\_\_\_  
 NY NY 10013  
 County, City State Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: 11/11/20

